

STATEMENT BY THE PRIME MINISTER OF
CANADA TO THE CONFERENCE OF
FIRST MINISTERS ON ABORIGINAL
CONSTITUTIONAL MATTERS
OTTAWA, MARCH 8-9, 1984

A study the government made a few years ago of the conditions of the Indian peoples presents a sorry state of affairs.

- Their life expectancy is ten years less than for the population as a whole.
- Violent deaths are three times the national rate. Suicides particularly in the 15-24 age group are more than six times the national rate.
- Between 50 and 70 percent receive social assistance.
- One in three families lives in overcrowded conditions. Less than 50 percent of Indian houses are properly serviced, compared to a national level of more than 90 percent.

I do not think the latest figures, if they were available, would show any great change. No study of this kind has been made of the conditions of the Inuit or the Métis but we cannot expect that such a study would lead to a very different result.

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① These statistics illustrate the fact that aboriginal peoples have long been victims of severe injustices which are not tolerable in Canadian society. As a small but significant segment of our population, they have suffered and for the most part continue to suffer acutely from:

- economic disadvantage;
- social degradation;
- political obscurity.

② But perhaps the greatest injustice over the years is the hard fact that their condition has been almost totally ignored by the mainstream society, including its governments. Both levels of government have some degree of responsibility for the aboriginal peoples, either as citizens or as descendants of the original inhabitants of this country.

③ Yet in spite of these acknowledged adversities the aboriginal peoples have managed to survive as identifiable groups in our population. Willpower, patience and determination to sustain themselves in a hostile social environment have enabled the aboriginal groups to persevere in their quest for the justice, respect and consideration they have been denied since the dawn

of our Canadian history; this by an ever-expanding and energetic society with particular pride in its capacity for tolerance and social compromise.

In the past decade or so, the aboriginal groups have succeeded, with encouragement from the government but largely through their own efforts, in making themselves heard. As their voices have become clearer and as the dialogue has enlarged, the disposition of governments to listen has grown. This positive approach to questions long ignored or treated negatively has led us to this conference table and to the agenda we face in this series of conferences.

④ We started in 1982 by inserting in our Constitution section 35, in which aboriginal and treaty rights were recognized and affirmed. We were aware at the time that these rights needed to be identified and further defined through a constitutional process. My own view is that the problem of identification of rights is well advanced. On both sides we now have a clearer idea of the subject matters the aboriginal peoples have in mind when they speak about their rights. However, neither they nor we have the same clarity of ideas when it comes to the definition of those rights. And that is not surprising, given the complexity of the subjects identified. We will find appropriate

formulations for inclusion in the Constitution when they have emerged with some precision from our ongoing discussions.

In the meantime, we should try to avoid the further complications which frequently flow from misinterpretation or misapprehension of words which have cropped up in the course of our ongoing consultations.

One of these is the word extinguishment, which has long been used in connection with aboriginal rights, whether when referring to the treaties concluded with Indian groups in historic times, or to the more recent comprehensive claim agreements already reached or in the process of negotiation. It is a word which has attractions for lawyers because of its tidiness, especially in situations where one set of rights is being exchanged or substituted for another. But the beneficiaries of those rights, in this case the aboriginal peoples, fear that extinguishment contains a threat of finality or extinction -- a snuffing of the flame of aboriginal culture which the peoples concerned have striven so long and hard to sustain.

If we think back to the time when the contact between aboriginal and non-aboriginal peoples began, we know that the rights of the aboriginal

peoples were not written down in formal documents. They were being exercised freely by the aboriginal groups found in various parts of the country. As the newcomers began to occupy the country, it was they who gave expression to those aboriginal rights in legal documents of their own devising. The Royal Proclamation of 1763 was one such document. So were the treaties concluded with various Indian nations or tribes. There were further expressions of aboriginal rights in federal laws referring in particular to provincial boundaries and resource transfers. The changing situations at various times in our history have required new or enlarged formulations for giving expression to the rights of aboriginal peoples in Canadian law.

The treaty-making process and the land claims settlement process in which we are now engaged have the same goal, the transformation of uncertain, ill-defined aboriginal rights that have proved to be difficult to enforce, into clearly stated, justiciable, written rights. These new rights rise, Phoenix-like, from the ashes of the old. And so today we are looking for a further formulation or expression of aboriginal rights which will be suitable for inclusion in the Constitution and which will serve as a sound base for the future relationships of the aboriginal groups

with others in Canadian society, including governments. And we do this in a time when our Constitution is just beginning to serve all Canadians as a safeguard for rights in the future. Certainly, if a better word than extinguishment can be found to characterize the process I have just described, I will be disposed to agree to its use.

Another word which tends to irritate our discussions is entrenchment. It is a word that often seems to get in the way of progress. In the business of building a solid constitutional base for aboriginal rights, one does not necessarily begin with the inclusion in the constitutional document of barely perceived propositions and prescriptions. We do not have to look very far afield in the world to see places where fine constitutional phrases and pronouncements are but a cover-up for a general denial of rights to some groups in the society concerned. We in this country do not seek a Constitution which is nothing but a paper monument for rights that are buried under a pile of empty words. We seek constitutional provisions which have practical meaning and benefit for the people whom they concern.

We shall do that by threshing and sifting ideas thoroughly until the

right ones fall into place in workable formulas. We should know that they will work, if only on a trial basis, even as our discussions continue. When we have got the right stuff, we shall have little difficulty in finding place and expression for it in the Constitution. That is a process solidly based in the Canadian way of achieving workable consensus and compromise.

In aboriginal matters, in all Canadian matters deserving constitutional treatment, we shall succeed by striving energetically for formulas and prescriptions that work for the benefit of all concerned, because they will take into account the aspirations and interests of all concerned. And we shall end up with a Constitution that is alive and well, and a source of pride and comfort for all of us.

Before suggesting some of the ways in which I think those matters should move in the immediate future, I want to refer briefly to another word or phrase which in recent years has troubled our discussions. I refer to equality of rights for aboriginal men and women.

My own view is that equality of the sexes is protected for all Canadians including the aboriginal peoples by the Charter of Rights and

Freedoms. But I do not preclude an additional provision for the sake of greater clarity. Such a provision was included in the resolution to amend the Constitution we agreed upon last year. Should we conclude that further amendment is called for, the Government of Canada will raise no objection. I have some wording to put forward should it be required.

While on the subject of equality I would like to announce that legislation will be introduced shortly to repeal the discriminatory provisions of the Indian Act, and, in particular, section 12(1)(b). Repeal of this section will mean that status under the Indian Act will not be lost or acquired by marriage.

I would now like to suggest what should be our objectives at this Conference. In the field of rights the major preoccupation of the aboriginal peoples is with self-government. This should be the principal subject of our discussions. But inclusion in the Constitution of rights to self-government cannot alone meet the real, day-to-day, needs of Indians, Inuit and Métis living in their own communities. Another item on our agenda should be the need to build the socio-economic infrastructure the aboriginal peoples need if they are to fulfill their reasonable expectations both as

Canadians and as persons of aboriginal ancestry. Then there is a third question to which we should address ourselves. Peoples are distinguished one from another as much by language and culture as by history and geography. If our aboriginal peoples are to preserve their heritage and keep their identity in our society, their cultures and languages must be preserved and enhanced.

If you agree, I suggest that the underlying thrust of our discussions should be directed to these three ends:

- self-government, a broad subject-heading that can encompass most if not all of the particulars in the prepared agenda;
- building the socio-economic infrastructure;
- protection and enhancement of aboriginal cultures and languages.

I will now deal briefly with each of these in turn. The first of them is self-government.

There is nothing revolutionary or threatening about the prospect of aboriginal self-government. Aboriginal communities have rightful

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aspirations to have more say in the management of their affairs, to exercise more responsibility for decisions affecting them. These functions are normal, and essential to the sense of self-worth that distinguishes individuals in a free society.

The Government of Canada remains committed to the establishment of aboriginal self-government, and it is my impression that the provinces are very much of the same mind. And so we are not here to consider whether there should be institutions of self-government but how these institutions should be brought into being; what should be their jurisdictions, their powers; how they should fit into the interlocking system of jurisdictions by which Canada is governed.

Democratic institutions of government come into being as a result of an evolutionary system of trial and error, by learning while doing. The aboriginal peoples can look back on thousands of years of managing their own affairs, albeit at a time and in circumstances where government was a simpler matter than it is today, free of the complexities it has had to take on to meet the needs of modern societies. We can also look to a broad range of experience in government in Canada and in other societies. So we do not look forward

into the darkness but to a complex of well-lit paths among which we must choose wisely since our choice may bear heavily on our lives and on the lives of generations to come.

Institutions of self-government may well turn out to be different for different communities in different parts of Canada, not just among Indians, Inuit and Métis, but among communities within each of these peoples as well.

i) Indians

The Penner Report on Indian Self-Government proposes institutions of self-government for the Indians deriving from both legislated delegation of federal powers and constitutional entrenchment. The government's response to the report envisages framework legislation to provide for self-governing institutions by delegation of federal powers. There will be consultations between the government and representatives of the Indian people to assist in the development of the proposed legislation. Parallel discussions will take place with provincial governments since they have their own responsibilities toward the aboriginal peoples. Moreover, though the government can, within constitutional limits, delegate some of its responsibilities to aboriginal

institutions of self-government, such delegation is bound to have its effect on the provinces. As we develop federal enabling legislation for early introduction in Parliament it is my hope that the provinces will develop complementary legislation to help ensure that the aboriginal governments mesh effectively with other governmental institutions.

To ensure that the work of preparing federal framework legislation proceeds at an active pace, I have taken responsibility for its future development myself. The Penner Report recommended an intermediary - a Minister of State reporting to the Prime Minister. I hope that I can indicate the importance of this process of negotiation and drafting by having it reported to me personally.

(12)
ii) Inuit

I now turn to the subject of self-government for the Inuit. The Inuit are to be found in the provinces of Quebec and Newfoundland and in the Northwest Territories, in both the western and the eastern Arctic. The provisions of the James Bay Agreement respecting local and regional government should meet the reasonable aspirations of the Inuit in Northern Quebec. The Inuit of the western Arctic have the same expectations of

the settlement there, now agreed in principle. The Inuit living in Labrador also look to the land claims settlement process to provide the needed governmental institutions.

The great majority of the Inuit, who live in the eastern Arctic, are also engaged in the land claims settlement process. In the matter of self-government, however, their aspirations are very different. They look to division of the Northwest Territories, setting up in the eastern part they call Nunavut a public or non-ethnic government on the model of a territorial government.

The Government of Canada has agreed in principle to the division of the Northwest Territories, and is ready to give favourable consideration to the Inuit proposals.

(13)
iii) The Métis

The provincial governments are mainly responsible for the Métis. While in the view of the federal government they do not fall within the definition of the word "Indian" in section 91(24) of the Constitution Act, 1867, the federal government accepts a measure of responsibility to them as disadvantaged peoples. At this conference we must come to grips with the question of the complementary responsibilities of the federal and

provincial authorities and strive to resolve it in the interest of the Métis themselves.

In approaching the subject of self-government for the Métis, if we look to the route of legislated delegation of powers, the provinces and the Métis people might wish to consider whether the necessary framework legislation should not be put in place by the provincial governments. Any necessary complementary legislation could then be introduced in the Parliament of Canada.

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I acknowledge the importance the aboriginal peoples attach to self-government and I understand why. But we should remember that self-government is not an end in itself. It can be no more than a means to the attainment of the political and social objectives of a people.

Thus I now come to the second issue that should engage our attention: developing the social and economic programs and services for the aboriginal peoples. As our aboriginal peoples take their affairs into their own hands increasingly in the years to come, federal and provincial governments, in close concert with the aboriginal peoples, must work together to put in place the socio-economic

infrastructures that will enable them to fulfill their reasonable expectations as citizens of Canada. If this is to be achieved it will call for a maximum effort of all concerned. The provinces will have to fulfill their obligations to the aboriginal peoples as Canadians resident in the provinces. The federal government must fulfill its special obligations to the aboriginal peoples that derive from their ancestry. The aboriginal leaders too must share in the design and management of these programs and services to help ensure that they are properly in place to meet the needs of their peoples.

Housing, schools, social services, roads, water supply, sewage systems, electrification are essential to the health, comfort and economic development of communities. These have come to be seen as entitlements that flow from Canadian citizenship and residence. There is no excuse that I can find to continue to deny them to so many of our aboriginal compatriots. As in all things I believe we must help first those who need help most.

As a first step we must have a better understanding of the services and programs now being delivered by the federal government and the provinces, their effectiveness and

what gaps remain to be filled. I have asked Senator Austin, the Minister of State for Social Development to undertake this task, working in concert with the provincial governments and the representatives of the aboriginal peoples.

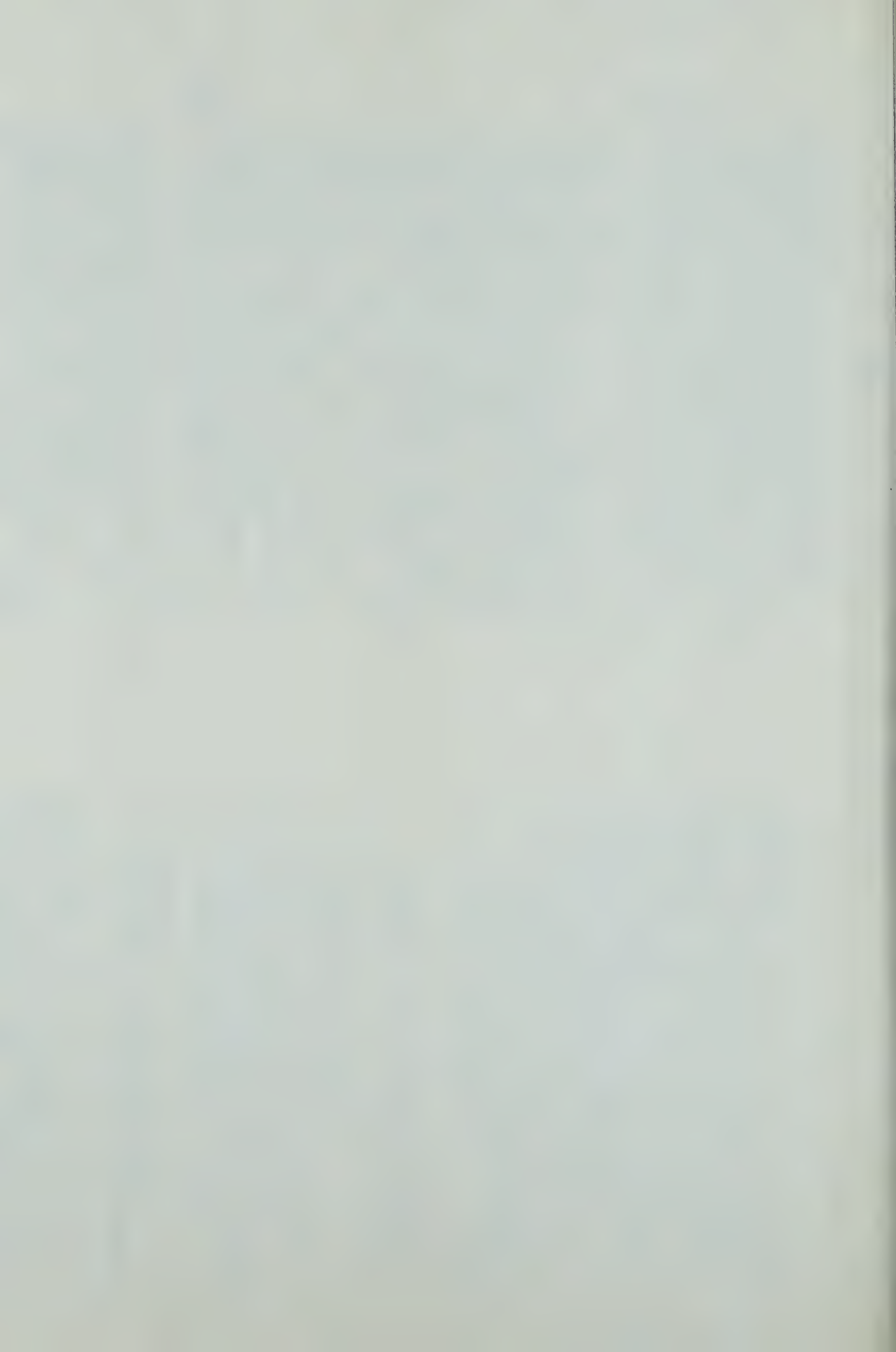
The third issue before us is the protection and enhancement of aboriginal cultures and languages. Aboriginal peoples are deeply concerned, and rightly so, about the maintenance of their cultures and languages, including arts, religion and above all the education of their children. This is a concern that all Canadians can readily comprehend. In due course self-governing institutions will prove to be important bulwarks for culture and language. The design of the necessary social, cultural and economic programs and services can be tailored so as to protect and enhance aboriginal cultures and languages. I suggest that it is the responsibility of us all to see to it that it be done.

Movement on these three issues, self-government, socio-economic development, culture and language would be real progress. To secure this progress, I am proposing that we strive, today and tomorrow, to reach agreement upon an accord. Such an accord would bind us to undertake amendment of the Constitution. The

draft amendment that I have for you and which will be distributed as I finish speaking takes the form of a commitment to:

- preserve and enhance the cultural heritage of the aboriginal peoples;
- respect the freedom of the aboriginal peoples to live within their own heritage and to educate their children in their own languages as well as within either or both of the official languages of Canada;
- include in the Constitution the right of the aboriginal peoples to self-governing institutions;
- negotiate the nature, jurisdiction and powers of those institutions and the financial arrangements relating to them.

The draft accord contains, in addition, a further amendment regarding equality should this be found necessary. It also contains a political commitment to review all aspects of programs and services directed to the aboriginal peoples. The results of this review would be reported to the conference to be held next year.



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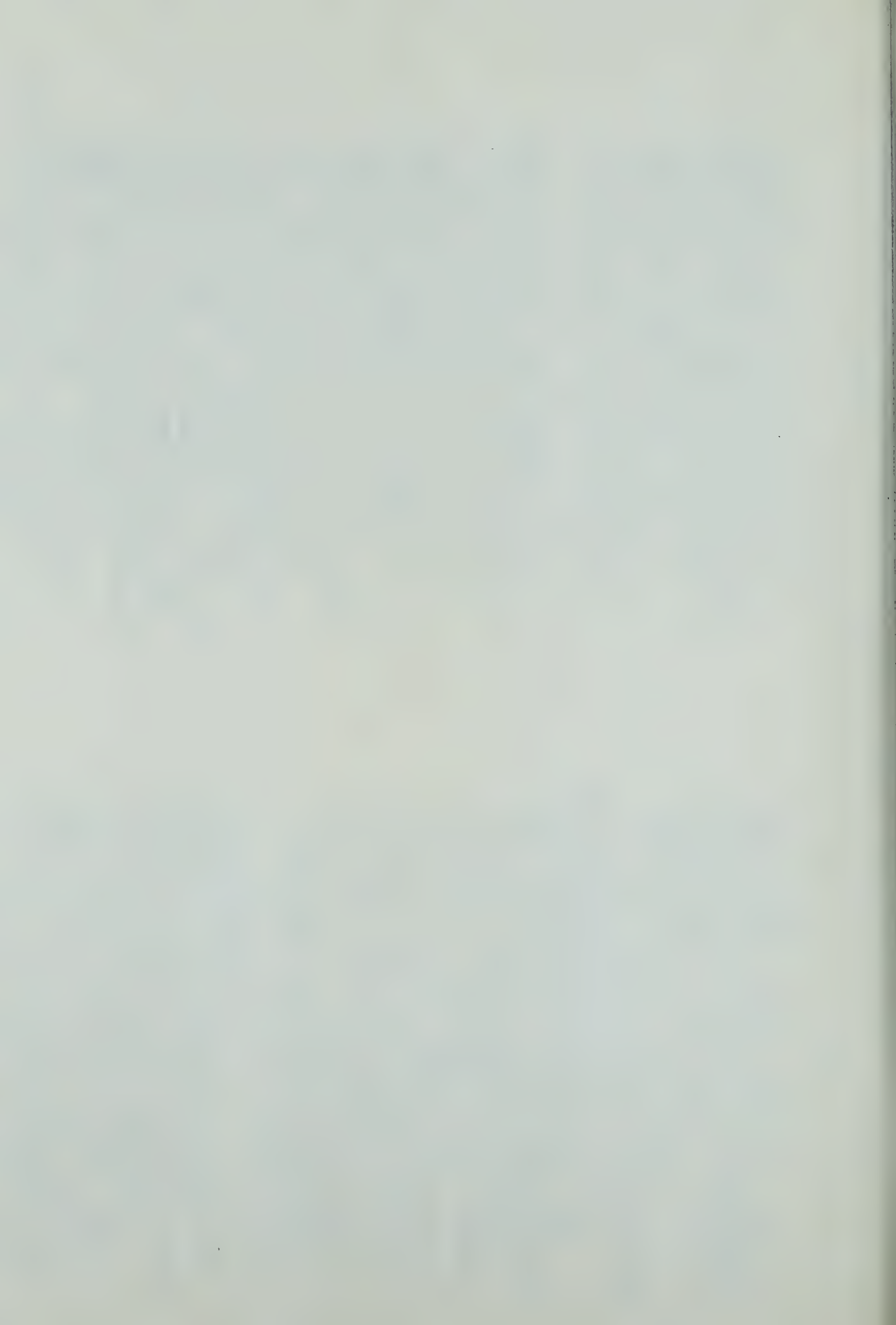
Self-government for those communities that can meet agreed criteria is coming. As the years pass, more and more communities will take advantage of the enabling legislation. Individual communities unable to qualify alone could join together to achieve the critical mass needed for the development of self-governing institutions. But for many communities, isolated, remote, lacking any solid economic base, reliance upon the Indian Act or, in the case of the Métis, provincial legislation, will continue for many years to come. As we set up framework legislation for institutions of self-government so must we also review existing legislation to minimize bureaucratic intervention and to delegate to communities not yet ready to adopt their own institutions of self-government whatever measure of decision-making and program management they can comfortably assume.

Building the socio-economic infrastructure can help break the cycles of poverty and dependency in which so many of our aboriginal peoples feel themselves to be trapped. Self-government and the enhancement of aboriginal cultures can return to the aboriginal peoples the pride of race and the sense of self-worth that is theirs by right.

My predecessor, Mike Pearson, once said that he'd had as many lives as a cat. I've had a few myself and I look forward to several more. But this is the last time I will address this assembly from this chair. If only for this reason I would like to say a few words to the aboriginal peoples of Canada not so much as Prime Minister or as chairman of the conference, but rather out of my own mind and heart.

Together we have embarked upon a journey that can lead you into full partnership in Canada, secure to you your own place in Canadian society with your own institutions of self-government, provide you with the infrastructure you need if you are to achieve economic success, and protect and enhance your cultures and languages. I am proud to have walked the first mile of this journey with you. Others will take my place and continue upon the journey with you for there can be no turning back. The Constitution guarantees you that.

But in the end your fate, and the fate of your children's children is in your own hands. You are the custodians of an ancient spirituality. Your lives are rich in culture and tradition. The extended family that is the tribe or community can be your strong support.



Take advantage of all that a modern society can offer, but for your soul's health stand on your own feet, on the sure foundation that spirituality, tradition and family have laid.



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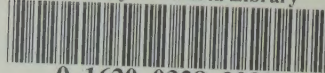
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